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1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK

3 -----x
4 UNITED STATES OF AMERICA

5 v.

17 CR 415 (PAC)
Conference

6 LUIGI JAQUEZ, KARILIE HERRERA,
7 SACHA SANTIAGO

8 Plaintiffs
9 -----x

New York, N.Y.
February 14, 2018
4:30 p.m.

10 Before:

11 HON. PAUL A. CROTTY

District Judge

12 APPEARANCES

13 GEOFFREY S. BERMAN
14 Interim United States Attorney for the
15 Southern District of New York

16 HAGAN C. SCOTTEN
17 SARAH KRISOFF
Assistant United States Attorney

18 DAVID S. GREENFIELD
Attorney for Defendant Jaquez

19 CARDI & EDGAR LLP
20 Attorney for Defendant Herrera
DAWN M. CARDI

21 DAWN M. FLORIO LAW FIRM PLLC
22 Attorney for Defendant Santiago
DAWN M. FLORIO

23 -Also Present-

24 LORRAINE GAULI-RUFO LAW - Standby CJA
25

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(Case called)

THE DEPUTY CLERK: Counsel for the government, please state your appearances.

MR. SCOTTEN: Good afternoon, your Honor.

Hagan Scotten and Sarah Krissoff for the government.

THE COURT: Good afternoon.

MS. KRISOFF: Good afternoon, your Honor.

MR. GREENFIELD: Good afternoon, your Honor.

David Greenfield for Mr. Luigi Jaquez.

He hasn't been produced, your Honor. I was over to see him after I was informed by your deputy earlier that he refused to come. That is not so. I spoke with him. He did not refuse. I spoke with the jailers over at the Bureau of Prisons and the MCC right next door, and they told me that the proceeding was canceled. I was told by them that he would be produced here today this afternoon. He wasn't, but my word to the Court is that he did not refuse to come this morning, and I don't know why there was a mixup. I don't think anybody is to blame, but I don't want the Court to think that he is not here because he doesn't want to be here.

THE COURT: Right.

MR. GREENFIELD: He's not here because he was not produced.

THE COURT: Thank you, Mr. Greenfield.

MS. CARDI: Dawn Cardi for Karilie Herrera.

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1 Good afternoon, your Honor.

2 THE COURT: Ms. Cardi, how are you?

3 Ms. Herrera, how are you?

4 DEFENDANT HERRERA: Fine.

5 MS. FLORIO: Good afternoon, your Honor.

6 Dawn Florio of the Dawn Florio Law Firm. I represent
7 Ms. Sacha Santiago, who is seated to the left of me.

8 Good afternoon your Honor.

9 THE COURT: Good afternoon.

10 Ms. Santiago, how are you?

11 DEFENDANT SANTIAGO: Good. How are you?

12 THE COURT: Well, we won't be doing anything today in
13 light of Mr. Jaquez's absence, but there are some preliminary
14 matters we can take up.

15 Mr. Scotten, is there a report from Washington?

16 MR. SCOTTEN: Yes, your Honor. This office has been
17 directed and authorized not to seek the death penalty against
18 Mr. Jaquez.

19 THE COURT: OK. So have you communicated that?

20 MR. SCOTTEN: I'm sure we communicated to counsel, and
21 I'm sure we forwarded the letter to the Court. If we did not,
22 I apologize.

23 MR. GREENFIELD: Your Honor, I was so notified
24 sometime last week.

25 THE COURT: What does that do then to the discovery

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1 schedule and next steps?

2 MR. SCOTTEN: Your Honor, discovery has been produced.
3 Obviously, we acknowledge we have continuing obligations for
4 anything new, but there's nothing we are holding on to now that
5 we haven't produced.

6 So assuming we resolve whatever counsel issues need to
7 be resolved, we can set a motion, calendar and trial date. I
8 do think it probably makes sense to resolve the issue for which
9 we originally convened today before doing that because that
10 could necessitate delays, but otherwise there is no obstacle to
11 setting a motion, calendar and trial date.

12 THE COURT: Mr. Greenfield, do you have idea about
13 motion schedule?

14 MR. GREENFIELD: Your Honor, I would think I would
15 need maybe 45 more days, maybe 30 to 45 more days, and I can
16 report back to the Court. I don't know what other counsel --

17 THE COURT: I'm going to ask Mrs. Cardi and Florio.

18 MS. CARDI: I think 45 days would be sufficient, your
19 Honor.

20 THE COURT: Ms. Florio.

21 MS. FLORIO: I concur, your Honor.

22 MS. CARDI: Judge, just as a point of information,
23 your Honor. Given the other matter that is before you, it
24 might be that there is new counsel for one of the defendants,
25 and I'm just reminding the Court of that.

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1 THE COURT: OK.

2 MR. GREENFIELD: Your Honor, just note with regard to
3 the CJA system, I will revert back to the old rate as of today
4 and submit a voucher as of today.

5 THE COURT: All right. Did you have learned counsel?

6 MR. GREENFIELD: No, I didn't ask for it. I didn't
7 see the need to ask for it in this case.

8 THE COURT: All right.

9 Now, Ms. Cardi and Ms. Florio, let's take up the other
10 matter.

11 Ms. Cardi, it's still your position that your client
12 objects to Ms. Florio's continuing representation of Ms.
13 Santiago?

14 MS. CARDI: Yes, your Honor.

15 THE COURT: You are not going to change that position?

16 MS. CARDI: I am not.

17 THE COURT: Under what circumstances in light of that
18 objection can Ms. Florio continue on to represent Ms. Santiago
19 in your view?

20 MS. CARDI: In my view, there are no circumstances,
21 your Honor, because I don't believe that it's a waive -- I
22 think Ms. Florio's client can waive her objection. My client
23 could waive her objection, but she is not going to.

24 THE COURT: What are your objections?

25 MS. CARDI: My objections were set forth in our

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1 ex-parte letter, and I would very much like the Court to take
2 my representations ex-parte. I don't think they should be
3 before the government.

4 THE COURT: Does the government want to be heard on
5 that?

6 MR. SCOTTEN: If the Court is inclined to proceed
7 today, we are fine leaving for whatever Ms. Cardi needs to say
8 without us present. We can step outside if the Court wants to
9 proceed today or we can do it another day.

10 THE COURT: I'd like to get started on this,
11 Mr. Scotten, if you don't mind.

12 MR. SCOTTEN: Not at all, your Honor.

13 MS. CARDI: Your Honor, I also think the courtroom, I
14 don't know who's here, but I'm not -- can we go to chambers?

15 THE COURT: We can go in the robing room.

16 MS. CARDI: OK.

17 (Pages 7-12 Sealed)

18 (Pages 13-17 Sealed)

19 (Continued on next page)
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(In open court)

THE COURT: What we decided in the robing room is that Ms. Cardi on behalf of Ms. Herrera will make a motion to disqualify Ms. Florio.

She is going to make the motion by March 9; response by Ms. Florio March 30; with a brief reply by April 6. I will decide that motion promptly, and then we will see whether new counsel is necessary or Ms. Florio is going to continue.

Is there anything else, Ms. Cardi or Ms. Florio, you want me to say?

MS. CARDI: No, your Honor.

MS. FLORIO: No, your Honor.

THE COURT: The submissions will be in camera. Because they've got to deal with matters that are strictly between Ms. Herrera and Ms. Santiago, I'm going to direct that the government not be served with the papers nor will Mr. Greenfield be served with the papers.

Anything else to take up?

MR. SCOTTEN: Yes, your Honor. Separate and apart from Ms. Herrera's motion to disqualify, we think there would -- how the Court resolves that, if Ms. Florio is going to stay on the case, there would still have to be a Curcio hearing to allocate Ms. Santiago on her rights to non-conflicted counsel.

THE COURT: I agree with that. I think that was clear

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1 in our conversations.

2 Ms. Florio?

3 MS. FLORIO: Yes, that's correct.

4 MR. SCOTTEN: Understood, your Honor.

5 THE COURT: Do you want to exclude time?

6 MR. SCOTTEN: Yes, your Honor. Since there are I
7 think -- the government moves to exclude time under the Speedy
8 Trial Act so that the parties can resolve the current issues
9 with respect to representation, and thereby prepare other
10 motions that may be relevant to resolution of the case.

11 THE COURT: Any objection?

12 (All counsel reply in the negative)

13 THE COURT: Time between now and April 15 will be
14 excluded for the reasons stated. Those reasons outweigh the
15 public and defendant in a speedy trial.

16 MS. CARDI: Is there another court date, your Honor?

17 THE COURT: The 16th. It's a control date. Nothing
18 is going to happen on the 16th except we have to have an end
19 date.

20 MS. CARDI: We are not going to appear or we are going
21 to appear?

22 THE COURT: It's a control date. After I get the
23 papers, I may want to hear argument. I certainly am going to
24 want to talk to both of you again. So we will set a date when
25 the papers are finally filed by April 6.

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1 MS. CARDI: Thank you, your Honor.

2 MS. FLORIO: Thank you.

3 MR. SCOTTEN: Thank you, your Honor.

4 THE COURT: Thanks very much.

5 (Adjourned)

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